

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB703)

Received: 2/7/2014 Received By: btradewe
Wanted: Today Same as LRB:
For: Warren Petryk (608) 266-0660 By/Representing: Marcie Rainbolt
May Contact: Drafter: btradewe
Subject: Agriculture - animals Addl. Drafters:
Nat. Res. - fish and game Extra Copies:

Submit via email: YES
Requester's email: Rep.Petryk@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt captive nonnative bears from provisions of chapter 29

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1		csicilia 2/7/2014	rschluet 2/7/2014	_____	mbarman 2/7/2014	mbarman 2/7/2014	

FE Sent For:

<END>

2013 DRAFTING REQUEST**Assembly Amendment (AA-AB703)**

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Wanted: Today

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2/7/14

FE Sent For:

<END>

Tradewell, Becky

From: Rainbolt, Marcie
Sent: Thursday, February 06, 2014 1:07 PM
To: Tradewell, Becky
Subject: Amendment to AB 703 Dangerous Exotic Animals Bill

Becky,

We want to work with the DNR to eliminate their concerns from Chapter 29. I've included the email from the DNR below.

Please let me know if you have any questions.

Thank you,

Marcie 6-0660

From: Van Haren, Thomas - DNR 6-3244
Sent: Wednesday, February 05, 2014 12:48 PM
To: Bruhn, Michael L - DNR 6-5375
Cc: Dunn, Peter L - DNR; Loomans, Scott D - DNR; Koele, Bradley M - DNR; Harvey, Chandra - DNR; Schaller, Todd A - DNR; Neumann, Paul F - DNR; Kowalkowski, Michael J - DNR
Subject: RE: Fiscal estimate assignment for AB 703--due to M&B Friday, February 7th

Mike, while researching the statutes for a different issue, I can across several provisions in ch. 29 that currently do not apply to non-native bear species that are currently regulated by ch. 169, Stats. They include authorization to buy and sell non-native captive bears held under a ch. 169 license as is currently allowed under s. 29.539(1m)(d), Stats., an exemption from the department having to provide animal damage assistance and pay claims for damage caused by non-native bears that had been held in captivity, under ss. 29.885 and 29.889, Stats., and a number of other misc. regulations under ch. 29 for which non-native bears held in captivity are currently exempt from. These current exemptions all have the potential to change if non-native bears held in captivity are no longer regulated by ch. 169, Stats. Meaning many ch. 29 regulations would now apply to these non-native captive bears.

While it may not be appropriate to include (and would be difficult to quantify) the potential fiscal impacts these changes may have on the department in the fiscal estimate for AB 703, it may be a good idea to share these issues with the bill drafter or sponsor, in case they are not aware of these likely unanticipated changes that would occur if AB 703 was passed in its current form.

Examples Include:

29.539 Sale of wild animals.

(1) (a) Except as otherwise expressly provided under this chapter, no person may sell, purchase, barter, or trade, or offer to sell, purchase, barter, or trade or have in possession or under control for the purpose of sale, barter, or trade any of the following:

1m. Any bear or any carcass of a bear at any time, including any head of a bear, bear claws, or bear teeth.

(1m) Subsection (1) does not apply to any of the following:

(d) A farm-raised deer, a farm-raised fish, fish produced in a municipal fish hatchery, a farm-raised game bird, or a wild animal that is subject to regulation under ch. 169 or the carcass of such a wild animal.

29.885 Removal of wild animals.

(1) DEFINITIONS. In this section:

(a) "**Damage**" means harm to forest products; streams; roads; dams; buildings; orchards; apiaries; livestock; and commercial agricultural crops, including Christmas trees and nursery stock.

(e) "**Remove**" means capture, shoot, set a trap for, relocate, or otherwise destroy or dispose of.

(f) Notwithstanding s. 29.001 (90), "**wild animal**" means any undomesticated mammal or bird, but **does not include** farm-raised deer, farm-raised game birds, or **wild animals that are subject to regulation under ch. 169.**

(2) DEPARTMENT AUTHORITY. The department may remove or authorize the removal of all of the following:

(a) A wild animal that is causing damage or that is causing a nuisance.

(3) DAMAGE COMPLAINTS.

(a) Within 48 hours after receipt of a written complaint from a person who owns, leases or occupies property on which a wild animal or a structure of a wild animal is allegedly causing damage, the department shall both investigate the complaint and determine whether or not to authorize removal.

29.889 Wildlife damage abatement program; wildlife damage claim program.

(1) **DEFINITION.** In this section, "wildlife damage" means damage caused by any of the following wild animals that are not subject to regulation under ch. 169:

(b) **Bear.**

(4) WILDLIFE DAMAGE ABATEMENT PROGRAM; ELIGIBILITY.

(bn) Type of wildlife damage. In order to be **eligible for wildlife damage abatement assistance**, the type of wildlife damage to be abated shall be limited to damage to commercial seedings or crops growing on agricultural land, damage to crops that have been harvested for sale or further use but that have not been removed from the agricultural land, damage to orchard trees or nursery stock or damage to apiaries or livestock.

(6) WILDLIFE DAMAGE CLAIM PROGRAM; ELIGIBILITY AND OTHER REQUIREMENTS.

(em) Type of wildlife damage. The type of wildlife damage that is **eligible for wildlife damage claim payments** shall be limited to damage to commercial seedings or crops growing on agricultural land, damage to crops that have been harvested for sale or further use but that have not been removed from the agricultural land, damage to orchard trees or nursery stock or damage to apiaries or livestock.

29.011 Title to wild animals.

(1) The legal title to, and the custody and protection of, all wild animals within this state is vested in the state for the purposes of regulating the enjoyment, use, disposition, and conservation of these wild animals.

(2) The legal title to a wild animal or carcass, taken or reduced to possession in violation of this chapter, remains in the state. The title to a wild animal or carcass, lawfully acquired, is subject to the condition that upon the violation of this chapter relating to the possession, use, giving, sale, barter or transportation of a wild animal or carcass by the owner, the ownership shall revert, as a result of the violation, to the state.

(3) **This section does not apply to farm-raised deer, farm-raised game birds, farm-raised fish, or wild animals that are subject to regulation under ch. 169.**

29.024 Approvals; forms; issuing agents.

(1) **APPROVALS REQUIRED.** Except as specifically provided in this chapter, **ch. 169**, or s. 95.55 (5), no person may hunt or trap in this state, fish in the waters of this state or **engage in any of the activities regulated under this chapter** unless the appropriate approval is issued to the person. A person shall carry the required approval with him or her at all times while hunting, trapping, or fishing or engaged in regulated activities unless otherwise required by this chapter or unless

otherwise authorized or required by the department. A person shall exhibit the approval to the department or its wardens on demand.

29.047 Interstate transportation of game.

(1) (b) No person in this state may transport into or through this state any game, or its carcass, from any other state in violation of any law of the other state.

(c) No person in this state may transport, possess or control in this state any game, or its carcass, that was taken in another state in violation of any restriction on open and closed seasons established under this chapter or of any bag, possession or size limit established under this chapter unless all of the following apply:

(2) Subsection (1) does not apply to any of the following:

(a) A person who has a valid taxidermist permit and who, in compliance with rules promulgated by the department under s. 29.063 (3) or (4), possesses, transports, causes to be transported, delivers or receives, or offers to deliver or receive, a wild animal carcass in connection with his or her business.

(b) The possession, transportation, delivery or receipt of farm-raised deer, farm-raised game birds, farm-raised fish, or wild animals that are subject to regulation under ch. 169.

29.055 Wild animals; possession in closed season or in excess of bag limit. Except as expressly provided in this chapter, no person may have in the person's possession or under the person's control, or have in storage, any wild animal or carcass that was taken during the closed season for that wild animal or that is in excess of the bag or possession limit or contrary to the size limits for that wild animal. The open and closed seasons and the bag, possession and size limits of the state, province or country in which a wild animal was taken shall apply to the wild animal or the carcass if it was lawfully killed outside of this state. This section does not apply to farm-raised deer, farm-raised fish, farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

29.057 Wild animals; possession in open season. It is unlawful to possess or control at any time a protected wild animal or the carcass of any protected wild animal showing that it was taken during the closed season for the protected wild animal. This section does not apply to farm-raised deer, farm-raised fish, farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

29.071 Wildlife on Indian reservations protected. No person may remove or take from any Indian reservation the carcass of any protected wild animal during the closed season for the wild animal except as authorized by the department under this chapter or ch. 169.

29.334 Hunting and trapping; treatment of wild animals.

(1) A person who hunts or traps any game animal or fur-bearing animal shall kill the animal when it is taken and make it part of the daily bag or shall release the game animal or fur-bearing animal.

(2) PENALTY. A person who violates sub. (1) shall forfeit not less than \$100 nor more than \$1,000.

(3) This section does not apply to farm-raised deer, farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

29.354 Possession of game birds and animals.

(1) APPROVAL NECESSARY. No person may possess or have under his or her control any game bird or game animal or the carcass of any game bird or game animal unless the person has a valid hunting license, sports license, conservation patron license, taxidermist permit, or scientific collector permit.

(5) CAPTIVE WILD ANIMALS. This section does not apply to farm-raised deer, farm-raised fish, fish produced in a municipal fish hatchery, farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

Thomas Van Haren

Conservation Warden & NR Policy Officer
Bureau of Law Enforcement
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-3244

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Website: dnr.wi.gov

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From: Loomans, Scott D - DNR
Sent: Monday, February 03, 2014 3:29 PM
To: Van Haren, Thomas - DNR; Dunn, Peter L - DNR
Cc: Bruhn, Michael L - DNR; Olver, Linda R - DNR
Subject: RE: Fiscal estimate assignment for AB 703--due to M&B Friday, February 7th

Thanks, this looks good to me. Would some more explanation be appropriate with this paragraph though – have you found a drafting oversight that likely does not reflect the author’s intent?

Current law under s. 29.539(1)(a), Stats., makes it is illegal to sell any bear, including any part of a bear carcass unless such bear subject to regulations under ch. 169, Stats. Under this bill, since captive bears, other than black bears, will no longer be subject to regulation under ch. 169, Stats., it will be illegal for any person, zoo, circus, Circus World Museum, wildlife sanctuary or person operating a research facility to purchase or sell any bear that is not a black bear in this state. The Dept. of Natural Resources may see some additional workload investigating illegal purchase and sales of bears or bear carcasses that are not black bears, as a result of this bill. The number of such investigations is indeterminate, but could be significant considering all the zoo’s, circus’s, the Circus World Museum, wildlife sanctuaries or research facilities that had been allowed to purchase captive bears of any species in the past. The purchase or sale of any bear in violation of s. 29.539, Stats., is a criminal violation punishable by fine of not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 6 months or both. In addition, the court shall order the revocation of all hunting and sport fishing approvals issued to the person under this chapter and shall prohibit the issuance of any new hunting or sport fishing approvals under this chapter to the person for 5 years.

 *Scott Loomans*

Wildlife Regulations Policy Specialist
Bureau of Wildlife Management
Wisconsin Department of Natural Resources
(☎) phone: (608) 267-2452
(☎) fax: (608) 267-7857
(✉) e-mail: scott.loomans@wisconsin.gov

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From: Van Haren, Thomas - DNR
Sent: Monday, February 03, 2014 3:11 PM
To: Loomans, Scott D - DNR; Dunn, Peter L - DNR
Cc: Bruhn, Michael L - DNR; Olver, Linda R - DNR
Subject: FW: Fiscal estimate assignment for AB 703--due to M&B Friday, February 7th

Scott, Thanks for starting this one. I made some additions and changes to your initial draft after thinking through this bill a bit more.

Everyone, give this draft a look and see what you think. Feel free to edit as needed.

<< File: AB 703 Fiscal Estimate Form--2013 Session.docx >>

From: Loomans, Scott D - DNR
Sent: Monday, February 03, 2014 11:41 AM
To: Neumann, Paul F - DNR; Van Haren, Thomas - DNR
Cc: Bruhn, Michael L - DNR; Olver, Linda R - DNR; Ryan, Tamara M - DNR
Subject: RE: Fiscal estimate assignment for AB 703--due to M&B Friday, February 7th

Tom, do you think you could take a shot at the value of savings LE would get from not having to inspect captive/harmful wild animals farms licensed for bears other than black bears, plug that into the narrative and "decreased costs" column, and that might be it?

I'll be out of the office this afternoon but most likely available by email. I sent an email to Jennifer asking about the number of non-black bear CWAFL's.

<< File: AB 703 Fiscal Estimate Form--2013 Session.docx >>

 *Scott Loomans*

Wildlife Regulations Policy Specialist
Bureau of Wildlife Management
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From: Neumann, Paul F - DNR
Sent: Monday, February 03, 2014 8:43 AM
To: Van Haren, Thomas - DNR; Loomans, Scott D - DNR
Cc: Bruhn, Michael L - DNR; Schaller, Todd A - DNR; OBrien, Matthew M - DNR
Subject: Fiscal estimate assignment for AB 703--due to M&B Friday, February 7th

Your bureau is responsible for preparing a fiscal estimate for AB 703.

Attached is an electronic routing slip, a copy of the bill, and a fiscal estimate template.

<< File: Fiscal note route slip--AB 703.docx >> << File: 2013 AB 703.pdf >> << File: DOA-2048 Fiscal Estimate Form--2013 Session.docx >>

Thanks,

Paul



State of Wisconsin
2013 - 2014 LEGISLATURE

Today



LRBa1665/1

RCT:/.....

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ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 703

Note

At the locations indicated, amend the bill as follows:

1. Page 2, line 1: before that line insert:

"SECTION 1c. 29.011 (3) of the statutes is amended to read:

29.011 (3) This section does not apply to farm-raised deer, farm-raised game birds, farm-raised fish, captive nonnative bears, or wild animals that are subject to regulation under ch. 169.

History: 1997 a. 248 s. 87; 2001 a. 56.

SECTION 1e. 29.047 (2) (b) of the statutes is amended to read:

29.047 (2) (b) The possession, transportation, delivery or receipt of farm-raised deer, farm-raised game birds, farm-raised fish, captive nonnative bears, or wild animals that are subject to regulation under ch. 169.

History: 1985 a. 29; 1991 a. 269, 316; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 95, 96, 518 to 521; Stats. 1997 s. 29.047; 2001 a. 56, 109; 2005 a. 286; 2013 a. 85.

SECTION 1g. 29.354 (5) of the statutes is amended to read:

29.354 (5) CAPTIVE WILD ANIMALS. This section does not apply to farm-raised deer, farm-raised fish, fish produced in a municipal fish hatchery, farm-raised game

as affected by
2013
Wisconsin
Act 20,

has affected by 2013 Wisconsin Act 20

birds, captive nonnative bears, or wild animals that are subject to regulation under ch. 169.

History: 1973 c. 214; 1983 a. 27; 1985 a. 29; 1991 a. 269; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 509 to 511; Stats. 1997 s. 29.354; 2001 a. 56; 2011 a. 251; 2013 a. 20.

SECTION 1j. 29.539 (1m) (d) of the statutes is amended to read:

29.539 (1m) (d) A farm-raised deer, a farm-raised fish, fish produced in a municipal fish hatchery, a farm-raised game bird, ^acaptive nonnative bear that is lawfully possessed, or a wild animal that is subject to regulation under ch. 169 or the carcass of such a wild animal.

History: 1973 c. 315, 333; 1975 c. 360; 1977 c. 418; 1985 a. 29, 272; 1987 a. 27, 42, 114; 1991 a. 39, 269; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 539 to 545; Stats. 1997 s. 29.539; 2001 a. 56, 109; 2003 a. 247; 2005 a. 288; 2009 a. 38; 2013 a. 20.

SECTION 1L. 29.885 (1) (f) of the statutes is amended to read:

29.885 (1) (f) Notwithstanding s. 29.001 (90), "wild animal" means any undomesticated mammal or bird, but does not include farm-raised deer, farm-raised game birds, captive nonnative bears, or wild animals that are subject to regulation under ch. 169.

History: 1989 a. 31; 1991 a. 39; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 637 to 641; Stats. 1997 s. 29.885; 1999 a. 32; 2001 a. 56; 2005 a. 82.

SECTION 1n. 29.889 (1) (b) of the statutes is amended to read:

29.889 (1) (b) Bear, other than captive nonnative bear."

History: 1983 a. 27; 1985 a. 29 ss. 662 to 668m, 3202 (39) (g); 1985 a. 332 ss. 41, 251 (1); 1987 a. 280; 1989 a. 31, 336; 1995 a. 27, 79; 1997 a. 27, 237; 1997 a. 248 ss. 396, 645 to 668, 706; Stats. 1997 s. 29.889; 2001 a. 56, 109; 2005 a. 82; 2007 a. 97; 2009 a. 28; 2011 a. 280.

2. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1s".

(END)

Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1665/1dn

RCT:/.....
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- Late -

Marcie Rainbolt:

I discussed which statutes should be treated in this amendment with Tom Van Haren of DNR. Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1665/1dn
RCT:cjs:rs

February 7, 2014

Marcie Rainbolt:

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov